

**IN THE UNITED STATE DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)**

FATIMA ALI,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 1:14-cv-01143
)	TSE-JFA
CITY OF FAIRFAX, et al.,)	
)	
Defendants.)	

ANSWER

COME NOW the defendants, City of Fairfax (“Fairfax”) and Robert Cowden (John Doe #1, “Cowden”), by counsel, and for their Answer to the Complaint filed by the plaintiff and removed by the defendants to this court, state as follows:

FIRST DEFENSE

Defendants Fairfax and Cowden respond to the plaintiff’s individually numbered paragraphs as set forth in the Complaint, without waiver to those matters and arguments raised in separately filed Motion to Dismiss on behalf of the remaining defendants, as follows:

1. Defendants Fairfax and Cowden are without full and complete information to either admit or deny all of the allegations set forth in paragraphs 1, 17, 19, 29 and 32, with the exception of denial as to identification of the bus driver as “John Doe #1” in paragraphs 29 and 32, and therefore demand strict proof thereof.

2. Defendants Fairfax and Cowden deny the allegations set forth in paragraphs 3, 4, 10, 11, 12, 13, 16, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 34, 35, 36, 37, 38, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55 and 56.

3. Defendants Fairfax and Cowden admit the allegations set forth in paragraphs 2, 5, 6 and 33 of the Complaint.

4. With regard to paragraphs 15 and 39, defendants Fairfax and Cowden incorporate herein by reference all responses set forth above as if restated verbatim.

5. With regard to paragraphs 7, 8 and 9, defendants Fairfax and Cowden admit only that the incident which is the subject matter of this suit occurred in Fairfax City, Virginia; and that pursuant to authorities properly cited in the Notice of Removal, the matter was removed to this court which is the proper United States District Court and division for the matter.

6. Defendants Fairfax and Cowden admit in part and deny in part the allegations set forth in paragraph 14 of the Complaint. Defendants admit that the CUE buses are operated by Fairfax employees, but state that the buses are maintained by Fairfax employees and/or by third parties depending on the nature of a particular maintenance or repair issue which may arise.

7. Any allegation not previously addressed and responded to herein above is denied.

SECOND DEFENSE

8. The Complaint fails to state a claim or cause of action for which relief may be granted against Fairfax on the grounds that it is immune from suit under the Virginia common law doctrine of sovereign immunity; and as set forth in separately filed Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6), the Commonwealth of Virginia does not recognize a claim or cause of action for negligent supervision or training under the facts and circumstances of this case and, therefore, Fairfax has no liability to the plaintiff under a theory of *respondeat superior* for such claims or alleged causes of action. Defendant Cowden also asserts his entitlement to sovereign immunity under the facts and circumstances of this case, consistent with established precedent from the Supreme Court of Virginia.

THIRD DEFENSE

9. Fairfax and Cowden reserve the right to rely upon any and all affirmative defenses which may become known through discovery and/or through evidence presented at trial including; and, without waiver at this time, the affirmative defenses of contributory negligence of the plaintiff, failure to mitigate damages, sovereign immunity.

FOURTH DEFENSE

10. Fairfax and Cowden deny that the plaintiff was injured or damaged in the manner or to the extent alleged and demand strict proof of all damages and injuries claimed in this litigation.

WHEREFORE, having answered, defendants City of Fairfax and Robert Cowden, by counsel, pray that the Complaint be dismissed and that they be awarded their costs expended. Furthermore, to the extent that any of the plaintiff's claims survive dispositive motions based on defenses raised herein above, or based on any further motions filed and heard prior to trial, defendants City of Fairfax and Cowden demand trial by jury on any and all remaining issues.

CITY OF FAIRFAX and ROBERT COWDEN

By Counsel

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on September 8, 2014, I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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